

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

GREATER BOSTON PLUMBING  
CONTRACTORS ASSOCIATION,

Plaintiff,

V.

Civil Act. No. 1:20-cv-12283

WILLIAM ALPINE, in His Official Capacity as  
Director of the Massachusetts Department  
of Family and Medical Leave,

Defendant.

## DECLARATION OF MICHAEL DOHENY

I, Michael Doheny, do hereby depose and state as follows:

1. I am the Undersecretary of Labor, and General Counsel of the Executive Office of Labor and Workforce Development. The Department of Paid Family and Medical Leave is one of the departments within the Executive Office of Labor and Workforce Development. I make this Declaration based on my own personal knowledge.

2. During the period from November 2018 through January 2021, Michael Morris, a lobbyist on behalf of building trade contractors, several times requested meetings to explain an amendment to G.L. c. 175M, § 2(f) that his clients were proposing. I attended three meetings with Mr. Morris and his clients on this topic, in November 2018, January 2019 and January 2020. Jeremy Ryan, the Executive Director of Plaintiff Greater Boston Plumbing Contractors Association, was present at most or all of these meetings.

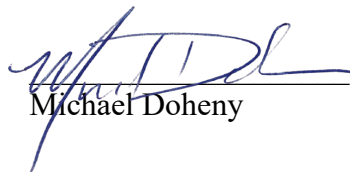
3. At those meetings, they explained the purpose of their proposed amendment.

Based on what they said, I understood that one purpose of adding the phrase “or otherwise

maintain” was to permit employees to use “banked hours” as a means of maintaining their health insurance under Section 2(f). As I understand the term, “banked hours” refers to a common practice among multi-employer benefits plans in the construction industry, in which employees can accumulate hours in an “hours bank” that can be applied in a future period to maintain health insurance coverage during that period if the employee has not worked the necessary numbers of hours to qualify for such coverage during that period under the terms of the benefit plan. The purpose of adding “or otherwise maintain” was to authorize other options by which health insurance coverage for employees on PFML leave can be maintained (like an “hours bank” system), other than having employers directly provide for and contribute to such coverage during the leave.

4. The proposed amendment was enacted in January 2021. Since the enactment of the amendment, the Department has consistently interpreted the phrase “or otherwise maintain” as encompassing such “hours bank” systems, such that an “hours bank” system can be used as a means of maintaining an employee’s health insurance under Section 2(f). This interpretation is reflected in a proposed revision to 458 C.M.R. 2.16, attached to the Declaration of William Alpine.

Signed under the penalties of perjury, this 27th day of June 2022.



Michael Doheny